



MICHIGAN CAMPAIGN FINANCE: FULL, TIMELY DISCLOSURE

Easier for Voters. Better for Michigan.

Campaign Finance Reform

for Michigan

Proposed by
Secretary of State Terri Lynn Land
April 24, 2006



Michigan Campaign Finance: FULL, TIMELY DISCLOSURE

Putting public information where it belongs – at the voters' fingertips.

Michigan's efforts to promote timely, complete and effective disclosure have paid off. According to the Campaign Disclosure Project's annual report "Grading State Disclosure," Michigan has ranked in the top 10 in campaign finance disclosure for the last three years. Michigan is second in the nation (tied with Rhode Island) for accessibility of campaign finance records, and is one of few states with searchable contribution and expenditure databases.

However, the 2004 presidential election sparked an upswing in voter participation and increased citizen demand for more information. In response, Secretary of State Terri Lynn Land is proposing a 10-point strategy that offers voters more access to the information needed to cast an informed vote. Her proposal brings greater transparency to Michigan's campaign finance process and fortifies compliance efforts through additional enforcement tools.

Land's initiative would build on the steps already taken to improve Michigan's campaign finance process. These recent accomplishments include:

Mandatory electronic filing: Since January 2004, all campaigns and committees with contributions or expenditures of \$20,000 or more are required to submit their campaign finance reports electronically. This information is immediately made available to the public. Prior to this, only 15 percent of filings were voluntarily filed electronically.

Improved electronic filing program: The Michigan Electronic Reporting and Tracking System (MERTS), an electronic filing program that committees use to report financial data, has been enhanced. It now easily pre-screens for missing or incomplete information, prompts the user through the filing process and improves the accuracy of the records.

Timely technical assistance: In the last presidential election, approximately 3,379 calls and e-mails were handled through the Bureau of Elections' technical assistance helpdesk. In addition, departmental analysts fielded roughly 2,380 calls from candidates and committees requiring more in-depth assistance.

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A 10-Point Plan to Improve Campaign Finance in Michigan.

The following proposals put forth by Secretary of State Terri Lynn Land will make Michigan's campaign finance process more open by requiring that contribution and expenditure disclosure is immediate and comprehensive. These wide-ranging reforms will simplify Michigan's campaign finance laws and ensure even greater integrity and efficiency. Land believes it should be easier for voters to obtain information about the money that fuels campaigns and to determine which individuals and organizations are funding campaigns. This helps voters make truly informed decisions in the election process.

1 – Real-Time Disclosure

Create a “Real-Time” Reporting Structure. An effective campaign finance reporting system depends on the complete, accurate and timely disclosure of campaign finance activity. Current law requires campaign committees to periodically disclose the source and amount of contributions and expenditures. Land wants to improve the transparency of campaign financing by creating a “real-time” Internet reporting system. The Land proposal would use technology to display campaign finance information in a format that is readily accessible to voters. In particular, Land calls for:

- *“Real-time” Reporting: Don’t spend a dime until it’s posted online.* Land proposes that all contributions, receipts, expenditures and disbursements be reported electronically. A real-time reporting system would replace the need for the campaign reports that committees are currently required to file on a periodic basis. To maximize compliance, Land proposes that committees be prohibited from spending contributed funds until the contribution is reported electronically. If Land’s plan is enacted, the Department of State’s Web site would be redesigned so citizens can immediately view each committee’s recent transactions and current cash balance, similar to an electronic checkbook register.
- *All Around Real-time: Apply “real-time” rules to all committees that file with the state.* The Secretary recommends that all committees filing campaign finance statements with the state be required to do so electronically. The “real-time” rules would not apply to those committees that have been granted a reporting waiver.
- *Accountability is Number 1: Require a unique identifier for treasurers.* A treasurer is a vital member of a committee who is legally responsible for reporting and record keeping. To ensure the proper person is held accountable for the committee’s activities, it is essential the department be able to easily identify this individual. Land recommends the committee treasurer be required to provide his or her driver’s license number on all Statements of Organization filed on the committee’s behalf.
- *Follow the Money: Require committees to provide an identification number with each contribution.* Through campaign finance disclosure, regulators and the public should be able to track contributions and determine who is financially supporting candidates and committees. Currently, when candidates and other committees report receiving a contribution, the public is left to rely on the name as the best matching criteria, which leaves room for misinterpretation. To remedy this, the Secretary proposes requiring committees to provide their identification number with each contribution. For example, committees would put their ID number on their checks.

- *You've Got Mail: Allow electronic communication with the state.* Some committees have expressed a desire to receive notifications via e-mail. The Secretary recommends that Michigan campaign finance law be amended to allow committees to receive notifications from the Bureau of Elections in electronic format. Committees that voluntarily participate in this program would receive official notifications via e-mail; all electronic communications from the Bureau of Elections would be considered "served" upon the committee itself.
- *Election cycles: Revise calendar to better reflect election cycle expenses.* Under current law, an election cycle runs from the date following the last general election in which the office appeared on the ballot and ends on the day of the general election in which the office next appears on the ballot (i.e., for state House candidates, Nov. 3, 2004 to Nov. 7, 2006). For the sake of consistency and ease of administration, Land proposes that the election cycle begin on the first day of January immediately following the last general election in which the office appeared on the ballot, and end on the December 31 immediately following the next general election (i.e., for state House candidates, Jan. 1, 2005 to Dec. 31, 2006).
- *Funding "Real-time" Disclosure: Create "real-time" system with excess funds in Gubernatorial Campaign Fund.* The current system is unable to track contributions and expenditures in real-time. The state's public financing system provides grants to eligible gubernatorial candidates, but it appears unlikely that anyone will seek state matching funds in this year's election. Land recommends that a portion of the state campaign fund be used for technology upgrades necessary to implement and maintain the real-time electronic filing system. Her proposal sets aside \$2.5 million of the estimated \$8.5 million fund balance for this purpose. In future years, it earmarks any funds in excess of \$6 million for additional technology improvements.

2 – Stop Passing the Buck

Prohibit the Transfer of Funds between Committees. In the era of term limits, more candidates are transferring money raised for their current office to new committees created for seeking higher office, taking advantage of a special allowance in contribution limits. Existing law essentially allows savvy candidates to deposit the maximum campaign contribution from donors into their existing campaign committees, transfer those funds to new candidate committees, and solicit the same donors for additional contributions to the new committee. Land wants to prohibit fund transfers and require candidates to deposit money raised for their next campaign into a committee formed solely for that purpose. Incumbents who are term-limited or become candidates for different offices would be restricted to soliciting contributions for debt retirement and incidental expenses related to the office they hold.

3 – Eliminate Anonymous Underwriters

Require the Sponsors Of Issue Ads To Disclose. Land is concerned about the growing influence of "issue ads" that are not subject to disclosure under the Michigan Campaign Finance Act. Land believes the sponsors of these ads should identify themselves and reveal the sources of their funding. Her proposal includes new disclosure requirements for issue ads that are broadcast or disseminated within 60 days of an election. Ad sponsors would be required to submit an electronic report within 48 hours of the date on which the ad is first broadcast, published or otherwise disseminated—disclosing the name and address of the organization that paid for the advertising, the cost of the ad, and the name of the candidate or candidates targeted by the ad.

Most significantly, ad sponsors must report the source and amount of contributions used to finance issue ads. The penalty for failing to properly disclose an issue ad may include a maximum fine of \$10,000 or the amount of the expenditure, whichever is greater.

4 – Update Laws to Reveal who is Responsible

Require Identifiers on All Communications Media. A basic objective of the Michigan Campaign Finance Act is the disclosure of who is paying for political advertisements and communications. Michigan law addresses conventional methods of advertising like newspaper and television by requiring identifiers and disclaimers that tell who is paying for the messaging. However, technology is emerging that allows for less conventional ways of advertising that Michigan law did not anticipate. These less conventional methods include the Internet, robotic calls and satellite media. To close possible loopholes, Land recommends that the Act be amended to include language that encompasses current and future media.

5 –End Confusion about PACs

Simplify the Definitions of Political Committees and Independent Committees. The terminology used to describe campaign finance activities confuses some voters. Currently, the terms Political Committee and Independent Committee are used in the Campaign Finance Act to mean Political Action Committees with different contribution limits. To minimize this confusion, Land recommends removing the terms Political Committee and Independent Committees from the Act and replacing them with “Political Action Committee” or PAC. If a committee meets certain requirements, it would be designated as a “Qualified PAC” and would be allowed to contribute at a higher limit.

The following are proposed requirements for committees seeking to be Qualified PACs:

1. Committee must register at least 6 months prior to the election in which the committee wishes to make contributions at the Qualified PAC limit;
2. Committee must receive contributions from at least 25 people of at least \$100 each;
3. Items 1 and 2 must be completed in the same calendar year; and
4. Committee must notify the Bureau of Elections within 10 days of its eligibility to be a Qualified PAC (satisfying requirements 1-3).

Once notified by the committee that it has satisfied the “Qualified PAC” qualifications, the Bureau of Elections would add the designation “Qualified PAC” to the end of the committee’s name.

6 – One-Stop Shopping for Campaign Finance Info

Require All PACs to File with the Secretary of State. In Michigan, the majority of PACs file their campaign finance reports with the Secretary of State. Exceptions include independent and political committees that file with the county clerk’s office – as they only operate in a single county and support candidates whose districts are wholly contained within that county. This is an unnecessary separation that can hinder disclosure and lead to confusion. Land recommends that all PACs file with the state. This will provide one source for parties interested in following PAC spending and eliminate confusion as to what role PACs are playing in Michigan’s elections.

7 – Checks and Balances

Provide For Audit Authority. Under current law, it is possible for a committee to evade disclosure requirements by failing to fully reveal the amount of contributions received and expenditures incurred. Auditing – coupled with new committee identification requirements – would assist the department in determining whether committees are properly reporting all financial activity. Land’s proposal would give the department the authority to audit committee records “for cause” when enforcement action is contemplated or in progress, and allows a limited number of random audits each year.

8 – Provide the Tools for Effective Enforcement

Provide for Subpoena Power. To strengthen the department's limited enforcement powers, Land recommends legislation allowing the department to issue subpoenas in appropriate cases to compel the production of records or testimony in connection with the investigation of campaign finance violations. Under Land's proposal, investigators would obtain a subpoena from a circuit court. Failure to comply with a subpoena would result in a contempt charge.

9 – Ensure Compliance, Full Understanding

Candidates Should Attest They Know, Understand & Will Comply with Michigan's Campaign Finance Act. One of the criticisms of our campaign finance laws is that violators rarely suffer any real penalties. It is true that some first-time violators of the statute are not prosecuted, as they have not "knowingly" violated the law. However, all violations of our laws must be taken seriously and all violators must be held accountable. To strengthen the Michigan Campaign Finance Act and allow for better enforcement, Land proposes amending the Act to include a declaration with the Statement of Organization certifying that the committee members are aware of the legal requirements and that any violations are knowing violations.

For effective enforcement, official notifications from the Bureau of Elections to the committees must be legally served on the committees. This can often be difficult when committees do not update the committee address information. Therefore, Land proposes to amend the Michigan Campaign Finance Act to require that committees provide an official mailing address and acknowledge that notifications sent to this address would be considered served regardless of the actual receipt by the committee.

10 – Fair Penalties for the Giver & Receiver

Prohibit Giving and Receiving of a Prohibited Contribution. A violation of Michigan's Campaign Finance Act must be taken seriously. Some sections allow for only one-sided penalties. For example, corporations are prohibited from making contributions, but committees are not prohibited from receiving corporate contributions. It is important that all parties to an illegal transaction be held accountable. Therefore, Land recommends that all prohibitions and penalties apply to both the giver and the receiver of the illegal contribution. The violators — once notified by the Bureau of Elections of the illegal contribution — would be given 10 business days to return it.





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 - *Real-time reporting.*
 - *Apply real-time rules to all committees that file with the state.*
 - *Require a unique identifier for treasurers.*
 - *Require committees to provide an identification number with each contribution.*
 - *Allow electronic communication with the state.*
 - *Revise calendar to better reflect election cycle expenses.*
 - *Create real-time system with excess funds in Gubernatorial Campaign Fund.*
- 2. Stop Passing the Buck:** Prohibit the Transfer of Funds between Committees.
- 3. Eliminate Anonymous Underwriters:** Require the Sponsors of Issue Ads to Disclose.
- 4. Update Laws to Reveal who is Responsible:** Require Identifiers on all Communication Media.
- 5. End Confusion about PACs:** Simplify the Definitions of Political Committees & Independent Committees.
- 6. One-Stop Shopping for Campaign Finance Info:** Require all PACs to File with the Secretary of State.
- 7. Checks and Balances:** Provide for Audit Authority.
- 8. Provide the Tools for Effective Enforcement:** Provide for Subpoena Power.
- 9. Ensure Compliance, Full Understanding:** Candidates Should Attest They Understand & Will Comply with Michigan's Campaign Finance Act.
- 10. Fair Penalties for the Giver & Receiver:** Prohibit Giving and Receiving of a Prohibited Contribution.

